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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MARIA ADAMCZYK and JEFFREY PATRICK CASSANOVA

Appeal 2009-005316
Application 10/716,967
Technology Center 2400

Before JAMES D. THOMAS, MAHSHID D. SAADAT,
and CARL W. WHITEHEAD JR., *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

Appellants appeal under 35 U.S.C. § 134 from a final rejection of claims 1, 3-10, 12-18, 20-26, and 28-33. Claims 2, 11, 19, and 27 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

Introduction

Appellants' invention is directed to managing Quality of Service (QoS) in broadband communication networks. Claim 1 is illustrative of the invention and reads as follows:

1. A method of managing Quality of Service (QoS) and/or bandwidth allocation in a Regional/Access Network (RAN) having a broadband access server (BRAS) that provides end-to-end transport between a Network Service Provider (NSP) and/or an Application Service Provider (ASP), and a Customer Premises Network (CPN) that includes a Routing Gateway (RG), comprising:

receiving at the RAN, a service session request from the NSP and/or the ASP including a request to establish or terminate a communication session, the NSP and/or ASP being associated with a service provider record;

authenticating the NSP and/or the ASP based on information contained in the service provider record to provide an authentication result or a termination result; and

transmitting from the RAN, the authentication result or the termination result to the NSP and/or ASP,

wherein the RAN comprises a digital subscriber link (DSL) network;

wherein the DSL network further includes a Network Interface Protocol Handler, a DSL Service Manager, and a DSL Session Data Store; and

wherein receiving a service session request from the NSP and/or the ASP comprises receiving the service session request at the Network Interface Protocol Handler.

The Examiner relies on the following prior art in rejecting the claims:

Zhang	US 6,792,457 B1	Sep. 14, 2004
Freed	US 7,073,055 B1	Jul. 4, 2006

DSL Forum, Working Text WT-081DSL Evolution - Architecture Requirements for the Support of QoS-Enabled IP Services (Straw Ballot Revision (8), March 2003) [hereinafter DSL Forum].

Claims 1, 3-5, 9, 10, 12-14, 18, 20-22, 26, and 28-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over DSL Forum and Freed.

Claims 6-8, 15-17, 23-25, and 31-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over DSL Forum, Freed, and Zhang.

Appellants' Contentions

Appellants contend that the Examiner erred in rejecting independent claims 1, 10, 18, and 26 as being obvious over DSL Forum and Freed because the references, alone or in combination, do not teach all the claimed features (Br. 8-9). Appellants further argue that there is not a proper motivation to combine the references because one of ordinary skill in the art would not have modified the cable system of Freed based on the teachings found in DSL Forum (Br. 9).

ISSUE

Has the Examiner erred in rejecting claims 1, 10, 18, and 26 as being obvious over DSL Forum and Freed by showing that the ordinary skilled artisan would have combined the references and the combination teaches or suggests all the claims limitations?

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellants' arguments that the Examiner has erred. We disagree with Appellants' conclusions. We adopt as our own the findings and reasons set forth by the Examiner in the action from which this appeal is taken and the reasons set forth by the Examiner in the Examiner's Answer in response to Appellants' Appeal Brief.

We further note that the Examiner properly relied on DSL Forum for disclosing the details of a DSL network and on Freed for disclosing the details related to the operation of the service provider. The Examiner specifically cites to different portions of DSL Forum for disclosing the claimed management of QoS and different component of the DSL network (Ans. 3, 9-11). The Examiner further cites to columns 13 and 14 of Freed for disclosing the specific steps for establishing the connection and exchanging data (Ans. 4, 9-11). While Freed describes larger bandwidth as one of the advantages of cable, as pointed out by the Examiner (Ans. 4, 10), interchanging the operational features of cable and DSL network is not precluded. In fact, the two systems are shown to be compatible because Freed uses a DSL network for upstream connection in a unidirectional cable system (col. 5, ll. 27-40; col. 7, ll. 6-14).

Therefore, we remain unpersuaded by Appellants' argument (Br. 8-9) challenging application of the relied on operational features of cable to a DSL network because Freed uses a DSL network for upstream connection and applies the same operational features used in a bidirectional cable for upstream connection to a DSL network when a unidirectional cable system is used. As such, one of ordinary skill in the art would have used the same

operational features disclosed in Freed, such as authenticating the NSP and transmitting the authentication results in connection with a DSL network similar to the network disclosed in DSL Forum to arrive at the invention recited in independent claims 1, 10, 18, and 26.

Appellants argue the patentability of the dependent claims based on the same contentions made with respect to the independent claims, which we found *supra* to be unpersuasive. Additionally, Appellants assert that Zhang fails to disclose the features recited in claims 6-8, 15-17, 23-25, and 31-33 (Br. 11). We disagree with Appellants and adopt as our own the Examiner's reasoning (Ans. 12-13) that the features disclosed in Zhang provide additional operational features that one of ordinary skill in the art would have combined with DSL Forum and Freed to further improve the operation of the DSL network.

CONCLUSIONS

(1) The Examiner has not erred in rejecting claims 1, 10, 18, and 26 as being obvious over DSL Forum and Freed by showing that the ordinary skilled artisan would have combined the references and the combination teaches or suggests all the claim limitations.

(2) The 35 U.S.C. § 103(a) rejection of claims 1, 3-10, 12-18, 20-26, and 28-33 is sustained.

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ORDER

The Examiner's decision rejecting claims 1, 3-10, 12-18, 20-26, and 28-33 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(v).

AFFIRMED

babc

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